

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
2018 Biennial Review of	)	PS Docket No. 18-376
Telecommunications	)	
Regulations	)	
	)	

**COMMENTS OF NCTA – THE INTERNET & TELEVISION ASSOCIATION**

NCTA – The Internet & Television Association (NCTA) hereby submits these comments in response to the *2018 Biennial Review Public Notice* regarding telecommunications rules that can be eliminated or modified when they are “no longer necessary in the public interest.”<sup>1</sup>

NCTA urges the Commission to repeal section 9.5(e)(2) of its rules, which requires interconnected Voice over Internet Protocol (VoIP) providers to obtain and keep an affirmative acknowledgment by every subscriber that they have been informed of certain qualities of interconnected VoIP services, including, for example, the impact of the loss of electric power and moving the physical location of IP-compatible customer premises equipment.<sup>2</sup> Given changes in regulations and the marketplace this acknowledgment requirement is no longer necessary to fulfill the Commission’s duty to promote “safety of life and property through the use of wire and radio communication.”<sup>3</sup>

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<sup>1</sup> *FCC Bureaus and Offices Seek Public Comment in 2018 Biennial Review of Telecommunications Regulations*, CG Docket No. 18-375 *et al.*, Public Notice, DA 18-1260 (PSHSB rel. Dec. 17, 2018) (*2018 Biennial Review Public Notice*); 47 U.S.C § 161(b).

<sup>2</sup> 47 C.F.R. § 9.5(e)(2).

<sup>3</sup> 47 U.S.C. § 151.

The Commission adopted the interconnected VoIP disclosure<sup>4</sup> and acknowledgment requirement in May 2005 to “ensure that consumers of interconnected VoIP services are aware of their interconnected VoIP service’s actual E911 capabilities.”<sup>5</sup> At that time, “[t]he IP-enabled services marketplace [was] the latest new frontier of our nation’s communications landscape,” and interconnected VoIP providers had not been required to provide access to E911 prior to that order.<sup>6</sup> Circumstances since 2005 clearly have changed as demonstrated by the proliferation of interconnected VoIP services. The marketplace for interconnected VoIP services continues to flourish and is no longer nascent. For more than a decade, interconnected VoIP providers have been providing access to E911 services, like traditional circuit-switched wireline carriers and wireless service providers and advising customers of the capabilities of their E911 services. Because VoIP providers have been informing customers pursuant to section 9.5(e)(1) and customers understand what they are being told, there is no reason to continue to require that customers provide a one-time acknowledgement of such 911 information, or that providers bear the expense of administrating and storing records of those acknowledgements.<sup>7</sup>

In fact, when the Commission imposed similar interconnected VoIP battery backup disclosure requirements in 2015, which must be provided at the time of sale and annually thereafter, it did not adopt a one-time acknowledgment requirement. The Commission did,

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<sup>4</sup> Section 9.5(e)(1) of the rules requires interconnected VoIP providers to advise every subscriber prominently and in plain language of the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service. 47 C.F.R. § 9.5(e)(1). NCTA does not seek to eliminate the disclosure requirement, although, as discussed below in note 8, the Commission should consider adopting a sunset for this requirement.

<sup>5</sup> *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36 and 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10272, ¶ 48 (2005).

<sup>6</sup> *Id.* at 10246, 10247, ¶¶ 1, 4.

<sup>7</sup> To the extent an interconnected VoIP provider fails to disclose the required E911 information, the Commission may pursue appropriate enforcement action.

however, impose a ten-year sunset on the backup battery disclosure requirement, reasoning that ten years “should be enough time to ensure that overall consumer expectations regarding residential voice communications are aligned with ongoing technology transitions.”<sup>8</sup> Given that more than ten years have passed since the VoIP 911 acknowledgment requirement was imposed in 2005, consumer expectations regarding interconnected VoIP E911 capabilities should have changed sufficiently to conclude that the acknowledgment is no longer necessary.

NCTA’s member companies are firmly committed to ensuring that customers have accurate information regarding the E911 capabilities of interconnected VoIP services and currently disclose such information in several ways. First, companies, in plain language, inform customers placing orders for voice service over the phone about interconnected VoIP E911 capabilities and battery backup options during the sales conversation, i.e., at the point of sale. In addition, some companies may offer their customers who have consented to receive text messages a link to a webpage via text message describing interconnected VoIP E911 capabilities and backup battery options. Customers purchasing interconnected VoIP services at retail stores or online receive the same information. NCTA member companies also publish detailed information online about interconnected VoIP E911 capabilities and backup battery options on their websites. Member companies also include descriptions of their interconnected VoIP E911 capabilities in residential customer service agreements. Finally, customers receive information regarding backup batteries annually. Thus, repeal of the one-time acknowledgment requirement

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<sup>8</sup> *Ensuring Continuity of 911 Communications*, PS Docket No. 14-174, Report and Order, 30 FCC Rcd 8677, 8678, ¶ 4 (2015). For the same reasons, NCTA also urges the Commission to adopt a sunset for the section 9.5(e)(1) disclosure requirement. The sunset should occur no later than the backup battery sunset. At that point, interconnected VoIP providers will have been complying with section 9.5(e)(1) of the rules for more than twenty years, and it is likely that many consumers will be more familiar with interconnected VoIP services than with circuit-switched voice service. Similarly, we urge the Commission to apply the same sunset to section 9.5(e)(3), which requires interconnected VoIP providers to distribute warning stickers or labels to customers that E911 services may be limited or unavailable. 47 C.F.R. § 9.5(e)(3).

under section 9.5(e)(2) will not adversely affect customers because they will continue to be notified that their VoIP service will not work in a power outage without a backup battery.

Based on the reasons outlined herein, NCTA requests that the Commission eliminate section 9.5(e)(2) of the rules because the acknowledgment requirement is no longer necessary.

Respectfully submitted,

**/s/ Steven F. Morris**

Steven F. Morris  
Jennifer K. McKee  
NCTA – The Internet & Television Association  
25 Massachusetts Avenue, NW – Suite 100  
Washington, DC 20001-1431

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